

March 13, 2003

CLARKE COUNTY BOARD OF SUPERVISORS
Continued Regular Meeting

4:30 pm

Board of Supervisors' Meeting Room

At a meeting of the Board of Supervisors of Clarke County, Virginia, held in the Board of Supervisors' Meeting Room, Second Floor of the Circuit Courthouse, 102 N. Church Street, Berryville, Virginia continued from Thursday, February 27, 2003, and reconvened on Thursday, March 13, 2003.

Present:

Chairman John Staelin, Supervisor Byrd, Supervisor Hobert and Supervisor Dunning.

Also Present:

David Ash, Tom Judge, Alison Teetor, Charles Johnston, Gordon Matheson, Val Van Meter, Jerry Herrmann and other citizens and members of the press.

Call To Order:

Chairman Staelin called the meeting to order at 4:35 pm in the Board of Supervisors' Meeting Room of the Circuit Courthouse.

Adoption of Agenda:

Supervisor Dunning requested the addition of one speaker during discussion of Item No. 3.

Supervisor Hobert moved to adopt the agenda as amended. The motion carried by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

Blasting Ordinance – Prospect Hill Spring

Chairman Staelin requested Charles Johnston, Planning Administrator, to provide a status report for the Board of Supervisors. Mr. Johnston stated that he had spoken with Chester Engineers and a representative from Schnabel, Gordon Matheson, was present to address the Board. Supervisor Dunning asked whether Schnabel was a potential source to write the ordinance and stated the County already had William K. Jones, a consulting hydrologist. Mr. Johnston stated that Dr. Jones had provided information from a hydrologist's viewpoint and what he needed from this point was someone with the ability to determine a plan for blasting. Also, dependent upon Board direction, their findings might warrant a county-wide blasting regulation to protect private wells.

Dr. Matheson stated he had reviewed the files and had looked at the site. He would also like to review the Jones report. He further stated during his twenty-five years of experience he has seen the impact of blasting on wells and springs here in the Valley, as well as neighboring States. In his expert opinion, he stated there are actually two risks to consider 1) quality of water, and 2) quantity of water. In his initial review of the area, he felt it would be a remote possibility that appropriate blasting would significantly impact the quantity of water. He noted

the groundwater was coming in from a wide, broad recharge area. Dr. Matheson stated water quality would be the greater risk. Blasting shakes loose silt, dirt and causing a turbid water supply. Water quality could be impacted from a few hours to a few months or longer. If these conditions last for any extended period of time, persons may be forced to re-drill wells.

Mr. Dunning cautioned Dr. Matheson that the County's concerns were not about any single development. What we wanted was an ordinance that would protect the spring, not stop a development. Dr. Matheson said he had probably misunderstood his mission and that he would have to rewrite his proposal.

Supervisor Byrd queried whether blasting for 48 houses didn't put this in a different league than blasting for a single dwelling. Dr. Matheson stated with expertise and current technology a blast can be designed to have a minimal amount of explosive going off at any one time. He did further note however that blasting with minimal amounts of explosives was not typical for residential development. Supervisor Byrd asked if there were other ways to remove the rock. Dr. Matheson stated they could use pneumatic hammers, which was more expensive and takes longer; however it is not without risk. With blasting, the impact is immediate; but the vibration of pneumatic hammers is steady and sustained over a longer period.

Supervisor Dunning requested that Dan MacKay-Smith be allowed to address the Board. Mr. MacKay-Smith stated that he was the owner of Farnley Farm, a family property. On this piece of property, there was a field called Springfield Pasture with two springs. Some years ago, a decision was made by the State to remove by blasting a large hill, which was approximately 1,200 feet from the Springfield Pasture portion of his property. Both springs in the pasture disappeared in one day and have never come back. Mr. MacKay-Smith also went on to tell Dr. Matheson about the recent installation of a grout curtain to repair and protect the Prospect Hill Spring.

Chairman Staelin stated the County needed to establish lines for a no blasting area and a restricted/limited blasting area in the Prospect Hill Springs area. Dr. Matheson indicated he and his firm have the experience to help the County develop the criteria for the ordinance including persons knowledgeable in blasting. Supervisor Dunning put forth that there is no ordinance in the country that has been written specifically for the protection of a spring and the County was in virgin territory.

Chairman Staelin stated that the Board needed to determine whether it wanted to develop another similar set of regulations to cover the rest of the County. Did we want, for example, to place restrictions on blasting within say 200 feet of private wells, springs or other water sources. He opined that as Virginia is a riparian rights state a landowner had no recourse if a neighbor's actions took all of his water. Thus, the landowner could not sue if a neighbor used large dynamite charges and ruined his well. An ordinance should minimize such danger and give the landowner some form of restitution if haphazard blasting techniques were used and caused damage. Chairman Staelin also stated that if the ordinance affected an area outside the already published area the Board would have to advertise for a new public hearing.

Chairman Staelin requested that Dr. Matheson provide a revised proposal with a "part b" outlining the work required for a County-wide ordinance for review by the Board of Supervisors during their regular meeting scheduled on Tuesday, March 18, 2003, and the item be added to the Agenda.

Supervisor Hobert asked for clarification on the charges for the services provided to date by Schnabel. Supervisor Dunning stated he did not feel obligated, while both Chairman Staelin and Supervisor Hobert felt further discussion was needed.

Closed Session:

Supervisor Dunning moved to convene into closed session pursuant to Section §2.2.3711-A6 of the Code of Virginia, as amended, to discuss the investment of public funds where competition or bargaining is involved.

The motion was approved as follows:

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

The members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, Supervisor Dunning moved to reconvene in open session. The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

Supervisor Dunning moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Board of Supervisors of the County of Clarke, Virginia, has convened a closed meeting on the date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3700 of the Code of Virginia requires a certification by the Board of Supervisors of the County of Clarke, Virginia that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Clarke, Virginia, hereby certifies that, to the best of each members knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors of the County of Clarke, Virginia.

The motion was approved by the following roll-call vote:

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

Next Meeting:

The next meeting of the Board of Supervisors is set for March 18, 2003 at 9:00 am in the Board of Supervisors Meeting Room, Second Floor of the Circuit Courthouse, 102 N. Church Street, Berryville, Virginia.

Adjournment:

There being no further business to be brought before the Board, the Chairman adjourned the meeting at 5:26 pm.

ATTEST:

John Staelin, Chairman

David L. Ash, County Administrator